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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
TURNER, SHARON L

ART UNIT	PAPER NUMBER
1647	

DATE MAILED: 03/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. Claims 1-60 are pending.

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-41, 43-46 drawn respectively a method of treatment, classified for example in class 424, subclass 130.1.

II. Claim 42 drawn respectively a method of treatment with a nucleic acid, classified for example in class 514, subclass 44.

III. Claim 47, 67-68 drawn to a composition and kit, classified for example in class 424, subclass 130.1.

IV. Claims 48-49 drawn to a method of screening with antibody, classified for example in class 435, subclass 7.1.

V. Claims 50-59 drawn to a method of screening with a cell, classified for example in class 435, subclass 325.

VI. Claims 60-66 drawn to a method of detection, classified for example in class 435, subclass 7.2.

3. The inventions are distinct, each from the other because of the following reasons:

4. Inventions III and I-II, III-V are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the

product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the antibody can be practiced with alternative antibodies, nucleic acids or peptides and the products as claimed can be used alternatively in a method of treatment, a method of screening compounds, and a method for detecting compositions.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and the search required for any Group is not required for any other Group, restriction for examination purposes as indicated is proper.

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

8. This application contains claims directed to the following patentably distinct groups of species of the claimed invention: 1) selected from antibodies which are A) human, B) humanized, or C) mouse, 2) selected from antibodies which are A) Polyclonal or B) Monoclonal, 3) selected from antibodies which are A) IgG1, B) IgG2, C) IgG3, or C) IgG4 and 4) selected from antibodies that bind to an epitope within residues A) 1-6 of AB, B) 1-5 of AB, C) 1-7 of

AB, D) 3-7 of AB, E) 1-3 of AB, F) 1-4 of AB, G) comprising a free N-terminal residue of AB, H) 1-10 of AB wherein residue 1 and/or 7 of AB is iso-aspartic acid.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from each of species groups 1-4 for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of one from each of the groups of species specified that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. For example, a fully responsive species election could specify that the antibodies were human, monoclonal and IgG1. The examiner acknowledges that a Polyclonal designation could include each of the specified species of group 3. However, Applicant should still specify that if the polyclonal sera is selected that it possess at least one of the three designated species of IgG as claimed.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention and species to be examined even though the requirement be traversed (37 CFR 1.143).

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

11. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

12. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Turner, Ph.D. whose telephone number is (703) 308-0056. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (703) 308-4623.

Sharon L. Turner, Ph.D.
~~December 14, 2002~~

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